



00008
 1 that if they're still available on the computer.
 2 and I suspect that they are, that they be made
 3 available.
 4 MR. GILLEN: To the extent we can recover
 5 and identify them, I'll be glad to make them
 6 available to the extent they don't reflect
 7 attorney-client communication.
 8 BY MR. HARVEY:
 9 Q. Are you presently employed, Mr. Buckingham?
 10 A. I'm retired.
 11 Q. How long have you been retired?
 12 A. Since '89. I was injured at work. I've had six
 13 back surgeries.
 14 Q. What did you do before you were retired in 1989?
 15 A. At that time I was a supervisor to York County
 16 Prison.
 17 Q. Have you worked at all since 1989?
 18 A. No.
 19 Q. What's the highest level of education, formal
 20 education, that you've had?
 21 A. I graduated from high school.
 22 Q. Do you have any formal education in science
 23 other than the standard science classes in high
 24 school?
 25 A. No.

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00009
 1 Q. Do you have any formal education in education?
 2 A. No.
 3 Q. Do you attend church?
 4 A. Yes.
 5 MR. GILLEN: Objection, relevance.
 6 BY MR. HARVEY:
 7 Q. You may answer the question.
 8 A. I didn't hear what you said. You had your hand
 9 up to your mouth.
 10 Q. Do you attend a church?
 11 A. Am I to answer that?
 12 MR. GILLEN: Yes.
 13 A. Yes.
 14 BY MR. HARVEY:
 15 Q. What church do you attend?
 16 A. Harmony Grove Community Church.
 17 Q. Do you have a family?
 18 A. Yes.
 19 Q. Can you tell me who is in your immediate family?
 20 A. My wife. You mean lives in my house?
 21 Q. Well, do you have children as well?
 22 A. I have three children.
 23 Q. What are their ages?
 24 A. I have a girl 39, twin boys 40.
 25 Q. Did any of them attend the Dover School

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00010
 1 District?
 2 A. They all did.
 3 Q. Were you on the board at the time?
 4 A. No.
 5 Q. What's your wife's name?
 6 A. Charlotte.
 7 Q. How long have you been on the school board?
 8 A. Approximately two years.
 9 Q. Had you ever been on the school board before
 10 that?
 11 A. No.
 12 Q. Why did you run for the school board?
 13 A. I ran for the school board because there were
 14 vacancies, and I feel that it's every citizen's
 15 duty to help out in government to the extent
 16 that they can.
 17 Q. Have you held any positions on the school board
 18 such as heads of committees?
 19 A. I was chair of the curriculum committee.
 20 Q. Have you ever had any other positions other than
 21 that on the school board?
 22 A. I was head of the-- I can't think how it's
 23 worded. I'm chair of a committee that --
 24 student affairs.
 25 Q. You're wearing a very prominent pin on your

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00011
 1 lapel that's the cross, the crucifix, with the
 2 American flag in the background, correct?
 3 A. Yes.
 4 Q. I take it that that reflects your beliefs.
 5 (Interruption)
 6 BY MR. HARVEY:
 7 Q. The pin that you're wearing, the cross, the
 8 crucifix, with the flag on it, that is a
 9 representation of your personal beliefs?
 10 MR. GILLEN: Objection, relevance.
 11 MR. HARVEY: I think his personal beliefs
 12 are very relevant to this litigation.
 13 MR. GILLEN: You think that. I'm objecting
 14 on the grounds of relevance.
 15 BY MR. HARVEY:
 16 Q. Please answer the question.
 17 A. Answer?
 18 MR. GILLEN: Yes.
 19 A. What beliefs?
 20 BY MR. HARVEY:
 21 Q. The ones that are reflected-- Does the crucifix
 22 with the flag on it that you're wearing reflect
 23 your personal beliefs?
 24 A. In what?
 25 Q. In anything.

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- 1 A. I believe a lot of things. I believe we have
 2 the greatest country in the world.
 3 Q. I'm wondering if you can tell me what beliefs of
 4 yours that reflects.
 5 A. To me this means God bless America.
 6 Q. Good. Fair enough. Are you familiar with the
 7 scientific theory of evolution?
 8 A. Yes, I am.
 9 Q. Can you tell me what it is in general terms?
 10 A. I'm not an expert in it, but I know it has to do
 11 with evolution within a species.
 12 Q. Is it your understanding that it teaches that
 13 life forms evolved from a common ancestor?
 14 A. I've heard that.
 15 Q. Is the theory of evolution offensive to your
 16 personal religious beliefs?
 17 A. No.
 18 MR. GILLEN: Objection, relevance.
 19 A. I'm sorry.
 20 MR. GILLEN: Go ahead, you can answer.
 21 BY MR. HARVEY:
 22 Q. It does not offend your personal religious
 23 beliefs?
 24 A. No, it doesn't.
 25 Q. Do you believe in a literal reading of the book

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00013

- 1 of Genesis?
 2 MR. GILLEN: Objection, relevance.
 3 BY MR. HARVEY:
 4 Q. Please answer the question.
 5 A. I don't know-- What was it?
 6 Q. Do you believe in a literal reading of the book
 7 of Genesis as it relates to the story of
 8 creation?
 9 A. My faith?
 10 Q. I'm asking whether you believe in a literal
 11 reading of the book of Genesis in so far as it
 12 relates to the creation story.
 13 A. That's one of the foundations of my faith.
 14 Q. I'm just trying to understand here that you do
 15 believe in that literal reading.
 16 A. That's one of the foundations of my faith.
 17 Q. Do you have a belief about how long God took to
 18 create the Heaven and the earth and the--
 19 MR. GILLEN: Objection, relevance.
 20 BY MR. HARVEY:
 21 Q. Do you have a belief about how long it took God
 22 to create the Heaven and the earth and the
 23 living species including man?
 24 A. Yes.
 25 Q. What is that belief?

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- 1 A. My faith is based on the book of Genesis. It
 2 says in there six days.
 3 Q. Is it your belief that those are six 24-hour
 4 days or six -- or something else?
 5 A. I have no opinion on that because it's in
 6 dispute.
 7 Q. Do you believe that teaching of the scientific
 8 theory of evolution that life forms including
 9 man descended from a common ancestor?
 10 MR. GILLEN: Objection, ambiguous.
 11 A. Something for me, I have somewhat of a hearing
 12 loss, and when you talk like this, I don't get
 13 your question. I don't mean anything by it, but
 14 I just don't.
 15 MR. HARVEY: I'm sorry, can you please read
 16 back my question.
 17 (The court reporter read back the previous
 18 question.)
 19 A. I don't really have an opinion on that because
 20 I'm not a scientist. I know it's a theory.
 21 BY MR. HARVEY:
 22 Q. But in any event, you don't view that as
 23 inconsistent with your own personal religious
 24 beliefs?
 25 A. Do I believe it's inconsistent?

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- 1 Q. Yes.
 2 A. Yeah.
 3 Q. I'm going to rephrase that just because I think
 4 maybe it was unclear before. It's your view
 5 that the scientific theory of evolution in so
 6 far as it teaches that the life forms including
 7 man evolved from a common ancestor is
 8 inconsistent with your personal religious view
 9 about how God created life?
 10 MR. GILLEN: Objection to the
 11 characterization of his testimony. I don't
 12 believe that's what he testified to.
 13 MR. HARVEY: But he can tell me if that's
 14 correct or not.
 15 A. I don't understand the question.
 16 BY MR. HARVEY:
 17 Q. Sure. I just want to be clear here. Am I
 18 correct in understanding that the theory of
 19 evolution in so far as it teaches that man
 20 evolved and life forms evolved from a common
 21 ancestor is inconsistent with your personal
 22 religious views?
 23 MR. GILLEN: Objection, relevance.
 24 A. The first part-- I'm missing part of the
 25 question. Are you saying that evolved from a

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1 common ancestor?

2 BY MR. HARVEY:

3 Q. I'll be happy to rephrase the question. I want
4 to make sure we completely understand. It's my
5 understanding, and I'm not a scientist either,
6 that among other things that the theory of
7 evolution teaches that the life forms including
8 man evolved from a common ancestor. And I am
9 asking you whether that view, that theory that
10 the evolution of -- that the theory of evolution
11 teaches is inconsistent with your personal
12 religious beliefs?

13 MR. GILLEN: Objection, relevance.

14 A. The way you stated the question that is not
15 inconsistent with my personal beliefs.

16 BY MR. HARVEY:

17 Q. Why not?

18 A. Common ancestor, what is a common ancestor?

19 Q. What do you understand that to mean?

20 MR. GILLEN: Objection, foundation.

21 A. It can be what scientists consider two tiny
22 amoeba way back zillions of years ago if you
23 want it to be. It can be-- For some people it
24 can be Buddha. For somebody else it can be
25 Allah. For a Christian it can be a Christian

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1 god, whatever.

2 BY MR. HARVEY:

3 Q. I think you need to spell a couple of those
4 things. You said boo?

5 A. Buddha.

6 Q. And the other one was Allah?

7 A. Allah.

8 Q. I'm sorry, I had a hard time hearing you that
9 time.

10 A. I'm sorry.

11 Q. But let's just take it for a second that the
12 common ancestor let's say is some single-celled
13 organism many millions of years ago and that if
14 that's what the theory of evolution teaches that
15 that's the common ancestor, does that violate or
16 is that inconsistent with your personal
17 religious beliefs?

18 MR. GILLEN: Objection, relevance. Steve,
19 I'm not going to let you keep asking him about
20 his religious beliefs. It's not relevant, and
21 it's harassing him. If you persist in this line
22 of questioning, then I'll instruct him not to
23 answer.

24 MR. HARVEY: Patrick, I am-- I do believe
25 it's relevant. I do not in any way mean it to

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1 be harassing. I'm just trying to understand
2 what his beliefs are, and I think it is directly
3 relevant to this litigation.

4 MR. GILLEN: We'll find out from the judge
5 if necessary.

6 MR. HARVEY: That's fine. But I'm just
7 trying to understand here, and the testimony is
8 a little unclear here, and we've just started
9 this deposition. And I want to be very
10 respectful of this gentleman's religious views,
11 but I think they are, as we say, in play in this
12 litigation to a certain degree. I'm going to
13 ask you about them.

14 MR. GILLEN: No. You've asked him many
15 times, and I'm not going to permit this line of
16 questioning to go on indefinitely, and I don't
17 think it's relevant. Go ahead.

18 MR. HARVEY: If you would like to instruct
19 the witness not to answer on relevance grounds,
20 you will be at your peril in this district.

21 MR. GILLEN: That's right. That's fine.

22 BY MR. HARVEY:

23 Q. Now, do you remember my question?

24 A. No.

25 MR. HARVEY: Can you read that back,

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1 please.

2 (The court reporter read back the previous
3 question.)

4 A. Ancestor to what?

5 BY MR. HARVEY:

6 Q. To all life forms including man.

7 A. The question was is that inconsistent with my
8 beliefs?

9 Q. Yes.

10 A. Yes.

11 Q. Why is that inconsistent with your beliefs?

12 MR. GILLEN: Objection, relevance.

13 A. Why is it inconsistent with my beliefs?

14 BY MR. HARVEY:

15 Q. Yes.

16 A. My faith is founded on the book of Genesis.

17 Q. Can you explain further?

18 A. They're different.

19 Q. How are they different?

20 A. Do you want to do this again?

21 Q. I would like to make sure that the record is
22 clear on this point.

23 A. Again, I'm not a scientist, but it's my

24 understanding that in the theory of evolution

25 where it goes back to the beginning of man it's

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is my view?
 Q Or your understanding.
 A Pretty much the book of Genesis.
 Q That subject has never come up at any school
 board meeting to your recollection?
 A In what context?
 Q In any context.
 A Any context at all? It's been brought up by the
 teachers.
 Q When was it brought up by the teachers?
 A Different times we talked about intelligent
 design they kept rolling it over into
 creationism.
 Q Was that at the board meetings?
 A Yeah.
 Q So the teachers mentioned creationism at board
 meetings?
 A Yes.
 Q What did they say about that?
 A They were afraid that intelligent design would
 be perceived as a back doorway to get
 creationism into the curriculum.
 Q Do you know when that was said, what board
 meetings?
 A It was said on different occasions at different

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 1 personal beliefs in any respect?
 2 MR. GILLEN: Objection, relevance.
 3 A. It depends on what context it's put in.
 4 BY MR. HARVEY:
 5 Q. Well, any context.
 6 A. In any context, no, it's not inconsistent.
 7 Q. Do you know who developed the press release
 8 that's attached as an exhibit to the answer in
 9 this matter?
 10 A. The administration did. Exactly who it was, I
 11 don't know, but it came from the administration.
 12 Q. Did you have any role in that?
 13 A. No.
 14 Q. Did you review any drafts of it?
 15 A. No.
 16 Q. I just need to clarify one thing from earlier.
 17 We asked— I asked you what was your purpose in
 18 supporting the board resolution of October 18th.
 19 Do you remember that?
 20 A. Yes.
 21 Q. And you told me some things about having a
 22 balance between various—
 23 A. Scientific theories.
 24 Q. Right. And I'm not sure whether I asked you
 25 specifically what was said by the other board

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00133
 1 board meetings throughout this process.
 2 Q. Which teachers?
 3 A. Bertha Spahr, Jen Miller.
 4 Q. What was said in response to that by any people
 5 on the board?
 6 A. We indicated that it is not our intent to teach
 7 creationism. It is not our intent to teach
 8 intelligent design. Our intent is to explain to
 9 the students that there are other theories,
 10 scientific theories, along with Darwin's theory
 11 of evolution.
 12 Q. Earlier today I asked you about whether the
 13 theory of evolution was inconsistent with your
 14 personal religious beliefs, and you told me it
 15 was. You don't need to confirm that. Just kind
 16 of remember—
 17 A. I think I said it wasn't.
 18 Q. No. You definitely said that the theory of
 19 evolution was inconsistent with your personal
 20 religious beliefs at least to the extent that it
 21 taught that life forms were derived from a
 22 common ancestor.
 23 A. Origins of life, yes.
 24 Q. Is the theory of intelligent design as you've
 25 phrased it, is that inconsistent with your

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 1 members about the purpose of the resolution or
 2 even if you remember hearing anything about
 3 that.
 4 A. That was consistent with what I said earlier to
 5 you.
 6 Q. Do you remember statements made by the board
 7 members?
 8 A. Absolutely.
 9 Q. Which board members?
 10 A. Alan Bonsell, Sheila Harkins, Heather Geesey,
 11 Jamie Cleaver, myself, Noel Wenrich. I guess
 12 that's it.
 13 Q. And you remember all of those people speaking up
 14 about the purpose?
 15 A. Yes, I do.
 16 Q. Was that on October 18th?
 17 A. I won't say it was on October 18th. That
 18 happened I would say within a period of three
 19 meetings, two before and October the 18th.
 20 Q. It was all, as I understand, a balanced
 21 presentation of these theories, correct?
 22 MR. GILLEN: Objection to the
 23 characterization of the testimony.
 24 BY MR. HARVEY:
 25 Q. Well, I just want to understand.

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Area School District, et al.

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[1] can answer it if you can.

[2] I believe Mr. Rothschild is referring to the
[3] Board's vote to have us represent the Board as such.

[4] MR. ROTHSCHILD: Right.

[5] A: Could you ask the question again?

BY MR. ROTHSCHILD:

[7] Q: Prior to the Board voting to engage the Thomas More Law
[8] Center to represent them in a lawsuit, how many
[9] conversations did you have with individuals from the
[10] Thomas More Law Center?

[11] A: As a representative of the Board, right then and there I
[12] accepted their help on behalf of the Board. When the
[13] vote was made to formally accept their help, I wasn't
[14] there.

[15] Q: Okay. The first time you called, did anybody on the
[16] Board know that you were going to call the Thomas More
[17] Law Center? Did you tell anybody in advance I am
[18] calling these guys up to find out whether they can help
[19] us?

[20] A: I don't remember if I did or not.

[21] Q: Up to the vote to engage the Thomas More Law Center,
[22] which I understand you weren't at, how many times do you
[23] think you talked to them?

[24] A: Four or five times.

[25] Q: Who initiated those calls?

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[1] A: They were back and forth.

[2] Q: And in all of these calls, you were seeking legal
[3] advice, and they were providing legal advice?

[4] A: Yes.

[5] Q: And nothing else?

[6] A: No.

[7] Q: Starting with the first — who did you have the first
[8] conversation with, which individual?

[9] A: Richard Thompson.

[10] Q: Tell me what you talked about.

[11] MR. GILLEN: Objection and instruction not to
[12] answer to the extent that the discussions entailed
[13] communications between the two parties for the purpose
[14] of securing legal advice.

BY MR. ROTHSCHILD:

[15] Q: Subject to that instruction, can you give me any answer?

[16] A: No, sir.

[17] Q: You can't answer if you are following that instruction?

[18] A: Correct.

[19] MR. ROTHSCHILD: For all subsequent conversations
[20] between Mr. Buckingham and the Thomas More Center, will
[21] you give the same instruction?

[22] MR. GILLEN: I will, Eric.

BY MR. ROTHSCHILD:

[24] Q: Did you contribute any money towards purchasing the

[1] Pandas books that were donated to the high school?

[2] A: No, sir.

[3] Q: Did you collect any money which was then contributed
[4] towards the purchase of the Pandas book?

[5] A: The money was donated to me.

[6] Q: So money was donated to you for what?

[7] A: For the purchase of the books Of Pandas and People.

[8] Q: Describe to me how that donation came about.

[9] A: I made a short statement prior to the beginning of our
[10] church one Sunday. I left people in the congregation

[11] know that the need existed. I explained I wasn't asking

[12] for any money, but if they felt led to help in that

[13] endeavor, feel free to do so.

[14] Q: What did you do that?

[15] A: Why did I do what?

[16] Q: Why did you ask your fellow church congregants to donate
[17] money to the purchase Of Pandas?

[18] A: Because my church congregation is basically the people
[19] we fellowship with. We don't have a lot of friends. We

[20] don't go to night clubs. We don't go dancing. We don't

[21] go to bars. We hang with the people we go to church

[22] with. They are our friends, and they are the people

[23] that I talk to.

[24] Q: Did you get up in church and sort of make a plea or

[25] presentation?

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[1] A: It wasn't in church. It was prior to church starting.

[2] And it wasn't a plea. It was just letting them know

[3] that a need existed. I explained I was not asking for

[4] any money, but if they would like to help, feel free to

[5] do so.

[6] Q: Describe the logistics or circumstances of that.

[7] communication. Where were you? Who were you talking

[8] to?

[9] A: I was in front of the church talking to the

[10] congregation.

[11] Q: Were you talking to members sort of coming in the door

[12] one by one, or were there people standing around?

[13] A: There were people sitting in the pews.

[14] Q: So you were in church?

[15] A: Yes.

[16] Q: Did this happen during a Sunday church service?

[17] A: No, it happened prior. It was before church started.

[18] Q: So was it on a Sunday?

[19] A: Yes.

[20] Q: And did you get up at the pulpit?

[21] A: No.

[22] Q: Where did you stand?

[23] A: I stood just in front of the pews.

[24] Q: Did you ask your minister for permission to do this?

[25] A: I asked one of the elders.

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Q: And what did you say to the elder in asking permission?
A: I don't remember.
Q: So before services started, you got up and spoke to the congregation?
A: Yes.
Q: And what did you say to them?
A: Just what I said before. I told them that there was a need, that we would like to acquire these books. We don't want to use taxpayers' dollars to do it. There is a need to come up with the money for these books.
If you feel led to donate, fine. I am not asking for money. I am just letting you know there's a need there.
Q: Did you describe what the need was?
A: I just did.
Q: Did you describe why there was a need?
A: I just did. We wanted to purchase these books, and we didn't want to use taxpayer dollars to do it.
Q: Did you explain to the congregation why you wanted to purchase the books?
A: I almost had to. I think I told them that we wanted the books to use as a supplement to use with the regular biology book.
Q: Did you explain why you wanted to do that?
A: That is going back. I don't know. I didn't talk more

[1] Q: Can you — how much money — when they contributed, did
[2] they contribute to you, meaning give the money to you?
[3] A: Nobody handed me money.
[4] Q: So how do you know they contributed?
[5] A: Because I got the money.
[6] Q: How did you receive the money?
[7] A: At the church, there are mailboxes you can have that
[8] basically were for the Pastor to transmit information to
[9] the various members. And envelopes would be put in my
[10] mailbox with cash in them.
[11] Q: All cash?
[12] A: There was a check.
[13] Q: Who did you receive the check from?
[14] MR. GILLEN: Do you want to talk to me?
[15] A: I would like to speak to my attorney.
[16] MR. GILLEN: Can we take a break, Eric?
[17] MR. ROTHSCHILD: Yes.
[18] (A recess was taken.)
[19] AFTER RECESS
[20] BY MR. ROTHSCHILD:
[21] Q: Mr. Buckingham, I understand you have some concerns
[22] about maintaining the confidentiality of the individual
[23] who contributed by check to the purchase of the Pandas
[24] book?
[25] A: That's correct.

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[1] than maybe 35, 45 seconds. I wasn't up there that long.
[2] It wasn't a question and answer thing or anything like
[3] that. It was just extremely brief.
[4] Q: Did anybody at your church come up and talk to you? Did
[5] anybody at your church ever talk to you about the
[6] subject after you made that presentation?
[7] A: Yes.
[8] Q: Many people?
[9] A: Yes.
[10] Q: Did they ask you questions?
[11] A: I am sure they did.
[12] Q: What kind of questions were you asked?
[13] A: I don't remember. I know we talked. I don't remember
[14] what was said or what was asked.
[15] Q: Did they ever ask you to describe why, you know, Pandas
[16] would be a good supplement?
[17] A: No.
[18] Q: Did they ever ask you why you were showing support for
[19] the Pandas book?
[20] A: No.
[21] Q: Did you in fact receive contributions? Did people at
[22] your church contribute?
[23] A: Yes.
[24] Q: How many?
[25] A: I don't know.

[1] Q: I am going to reserve my rights on that. I am not
[2] agreeing that I will never ask that question, but we
[3] will pass over it for now in this deposition with the
[4] following qualification: Can you answer whether that
[5] individual is or was a member of the Dover School Board?
[6] A: No. Absolutely not.
[7] Q: Is that person related in any way to a member of the
[8] Dover School Board?
[9] A: No.
[10] Q: Do you know the identity of the individuals who donated
[11] the cash?
[12] A: No, I don't.
[13] Q: They were all anonymous donations?
[14] A: Absolutely.
[15] Q: And how much money did you collect from your fellow
[16] congregants?
[17] A: \$850.00.
[18] Q: What did you do with that money?
[19] A: I deposited it in my checking account.
[20] Q: And did it remain there for all time?
[21] A: I wrote a check to Mr. Don Bonsell, and I gave that
[22] check to his son Alan.
[23] Q: How did you transmit the check to Alan?
[24] A: I just handed it to him.
[25] Q: Did you tell Alan what it was for?

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[1] I think that was in your question.

[2] A: I mean I don't know who donated all of the books. You
[3] didn't ask — because I don't know who donated all of
[4] the books.

BY MR. ROTHSCHILD:

[5] Q: But your father was one of them?

[6] A: That is the only person I know.

[7] Q: You just don't know how many of the 60?

[8] A: I don't know. I have no idea about that going on about
[9] it, of who donated, or how much they donated. I mean
[10] that wasn't — my father is my father. I'm me.

[11] Q: But you had an interaction with him in which you told
[12] him 60 books would be a good idea?

[13] A: Probably.

[14] Q: You can't remember how this subject matter came up?

[15] A: I believe I said before that it was because the comments
[16] of Barrie Callahan objecting to — what I remember is
[17] objecting to the school spending money on them. So I
[18] guess here is a group of people that said we will donate
[19] them.

[20] Q: And one member of that group of people told you?

[21] A: That they would donate the books. But I don't know —
[22] like I said, I don't know the group of people.

[23] Q: In the School District statement, it says that
[24] Mr. Nilsen has directed that no teacher will teach

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[1] Intelligent Design or Creationism or present his or her
[2] or the Board's religious beliefs.

[3] What do you understand by the use of the term
[4] Creationism, what does Creationism mean?

[5] A: You mean my opinion on what Creationism is?

[6] Q: This is your Board's press release. What does
[7] Creationism mean in this press release?

[8] A: I guess this would be the religious — what you would
[9] call the Bible version of origins.

[10] Q: Is that your personal understanding of what Creationism
[11] means?

[12] A: That is — I mean the definition of Creationism, you ask
[13] 50 people, there will be 50 different definitions. So I
[14] mean that's my personal definition of that. I'm not
[15] saying that is everybody's definition.

[16] Q: Your personal definition is the Bible version of
[17] origins; is that right?

[18] A: That is very general, but yeah.

[19] Q: Anything else that would fall —

[20] A: I mean the Bible version of creation of man and animals,
[21] that type of thing.

[22] Q: Would you agree that one aspect of Creationism is that
[23] creatures were originally made as they now exist, humans
[24] were humans, birds have feathers, fish have fins?

[25] A: You are asking my personal opinion?

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[1] Q: Is that your understanding of what Creationism is?

[2] A: My personal opinion?

[3] Q: Yes.

[4] A: You are saying that — again, repeat it again.

[5] Q: Is your understanding of Creationism, does it include
[6] the tenet that creatures were formed as they now exist,
[7] birds having feathers?

[8] A: You mean species?

[9] Q: Yes.

[10] A: Yes.

[11] Is your understanding of your understanding of Creationism that
[12] these separate species, birds, fish, humans do not share
[13] common ancestors?

[14] A: In regard to Creationism now we are talking about?

[15] Q: Yes, still Creationism.

[16] A: Yes.

[17] Q: Do you know what Intelligent Design — what position
[18] Intelligent Design takes on that issue of common
[19] descent?

[20] A: Well, Intelligent Design is not Creationism. Let's

[21] start off by saying that. Intelligent Design is a

[22] scientific theory. And as far as, you know, you are

[23] wanting my understanding of Intelligent Design now? Is

[24] that what you are asking?

[25] Q: Is that also an tenet of Intelligent Design that humans,

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[1] birds and fish don't share common ancestors?

[2] A: As far as everything started from one animal, is that
[3] what you are saying?

[4] Q: Just the question of whether they share common

[5] ancestors. You answered that question as regards

[6] Creationism. I am asking whether you have an

[7] understanding of whether Intelligent Design supports the

[8] same proposition, that birds and fish and humans do not

[9] have common ancestors.

[10] A: I think Intelligent Design is saying that life couldn't

[11] have gotten here by chance. That is basically I believe

[12] what they are saying.

[13] Q: But is one of the things that Intelligent Design is

[14] saying that the separate species, birds, fish, men do not

[15] share common ancestors? If you don't know, say you

[16] don't know.

[17] A: Well, I'm not sure.

[18] Q: Do you have a personal view of which concept

[19] Creationism, Intelligent Design evolution is more

[20] accurate?

[21] A: You are asking for my personal views now?

[22] Q: Yes.

[23] A: As far as Intelligent Design, Creationism or what?

[24] Q: Or Darwin's Theory.

[25] A: Do I think one more than another?

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[1] Q: Yes.
[2] A: Yes.
[3] Q: What is that?
[4] A: I believe in the Creationism.
[5] Q: Do you believe Creationism is a scientific theory?
[6] A: A scientific theory? Intelligent Design is a scientific
[7] theory. I guess Creationism would not be.
[8] Q: Have you attended any courses or lectures or seminars
[9] relating to the subjects of evolution, Intelligent
[10] Design or Creationism? I know you said you have done
[11] reading.
[12] A: Seminars?
[13] Q: Yes.
[14] A: Attended seminars? I don't believe I have attended
[15] seminars.
[16] Q: Lectures, courses?
[17] A: I can't recall.
[18] Q: Do you belong to a church?
[19] A: Yes.
[20] Q: What church is that?
[21] A: Church of the Open Door.
[22] Q: Has the subject matter of Intelligent Design been
[23] discussed at your church?
[24] A: I don't — I don't — I really — I really can't answer
[25] that, if it has ever been discussed. I'm not sure.

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[1] Q: Have you ever —
[2] A: I don't recall it being.
[3] Q: The press has reported that Casey Brown stated that she
[4] was asked by members of the Board whether she was Born
[5] Again.
[6] Are you aware of that occurring?
[7] A: No.
[8] Q: Ms. Yingling has been quoted in the press as stating she
[9] was encouraged to vote for the October 18th resolution
[10] by assertions that she was an atheist or un Christian.
[11] Are you aware of that occurring?
[12] A: No. I remember her — I also remember reading in the
[13] paper that she said the reason she voted for it is so
[14] that people didn't think she was an atheist.
[15] Q: You are not aware of anybody on the Board —
[16] A: She didn't say anything about being pressured.
[17] Q: You are not aware —
[18] A: I am not aware of anything like that. No, absolutely
[19] not. I think that is false, totally false.
[20] Q: Have you ever spoken to anybody at the Discovery
[21] Institute?
[22] A: Yes.
[23] Q: When was that?
[24] A: Just recently.
[25] Q: Can you describe the circumstances of your

Page 8

[1] communications with the Discovery Institute?
[2] A: Just basically things that they wanted.
[3] MR. THOMPSON: We are going to be getting involved
[4] in attorney/client privilege here so we have to be
[5] careful. Be very careful in answering his question that
[6] you don't reveal what you and the Discovery Institute
[7] lawyers discussed.
[8] MR. ROTHSCHILD: As I said to Mr. Gillen, I am not
[9] sure I agree with you that the attorney/client privilege
[10] applies here.
[11] BY MR. ROTHSCHILD:
[12] Q: I want to start without asking for any content of your
[13] communication for you to describe to me how it came to
[14] be that you had communication with the Discovery
[15] Institute, again, taking care not to tell me what was
[16] said.
[17] A: They had called and left a message for me to call them.
[18] Q: What did they say on their message?
[19] A: Basically that they just wanted to discuss things that
[20] they were, if I remember correctly, reading it in the
[21] newspapers and things like that. You know, it was on
[22] the AP wire so it was everywhere.
[23] Q: What did you do in response to that call?
[24] A: I did talk to them, but it was only I believe — only
[25] like once or twice that I ever like talked to them. It

Page 9

[1] wasn't like I had many conversations with them or
[2] anything like that.
[3] Q: Was your first actual conversation returning the call
[4] that they had left on your voice message?
[5] A: I believe so.
[6] Q: What did you say when you first made contact with
[7] somebody at the Discovery Institute?
[8] A: Just I was returning your call and was inquiring what
[9] the message was for.
[10] Q: Who did you talk to?
[11] A: I believe it was Seth Cooper, an attorney.
[12] Q: How did he respond to your statement returning your
[13] call? What did he say to you?
[14] A: He just said they wanted to discuss what we were doing
[15] at the School District.
[16] Q: Did he offer to represent you at that point?
[17] A: I don't recall.
[18] Q: In your conversations, did Mr. Cooper or any other
[19] attorney at the Discovery Institute ever offer to
[20] represent you or the School District?
[21] A: I would like to just take another break to ask my
[22] attorney a question.
[23] Q: That is fine.
[24] (The witness and his attorney exit the conference
[25] room to confer.)

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[1] changed your belief that presenting Intelligent Design
 [2] to the Dover students is helpful from a scientific
 [3] education perspective?
 [4] A: I believe it's helpful. It expands it, but we are not
 [5] teaching it. We are only making the kids aware of it.
 [6] Q: I didn't use the word teach. I said present. Nothing
 [7] you have learned from the Discovery Institute has
 [8] changed your view that making students aware of
 [9] Intelligent Design enhances their science education?
 [10] A: Could you repeat that again?
 [11] Q: I want to confirm that nothing you have learned from the
 [12] Discovery Institute has changed your view that making
 [13] students aware of Intelligent Design enhances their
 [14] science education?
 [15] A: Has changed my view? Absolutely not.
 [16] Q: Now we went off on this subject when I asked you about
 [17] whether anybody had made any presentation to the Board
 [18] in relation to the resolution they would have to vote
 [19] on, you talked about the Discovery Institute and didn't
 [20] describe it because you described it as a legal
 [21] communication.
 [22] Now I want to put the Discovery Institute aside
 [23] and ask whether other than the Discovery Institute
 [24] anybody made any presentation to the Board on the
 [25] subject of Intelligent Design or the subject matter of

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[1] the resolution?
 [2] A: I don't believe they made a presentation, no.
 [3] Q: Did you ever participate in any discussion with Board
 [4] members in which you described your own understanding of
 [5] Intelligent Design?
 [6] A: Did I describe my own understanding? I'm sure more than
 [7] likely I have.
 [8] Q: Can you remember who you had those conversations with?
 [9] A: I mean I can't specifically tell you, there again
 [10] because you are asking me to pinpoint exact times when I
 [11] could remember exactly when I said to each particular
 [12] member, but I more than likely have said these things to
 [13] the members of the Board.
 [14] Q: All the members of the Board?
 [15] A: Probably.
 [16] Q: You think you have described your own understanding of
 [17] Intelligent Design to all the other Board members?
 [18] A: There again, if you are asking me specifically when that
 [19] happened, I don't know.
 [20] Q: I am not.
 [21] A: Generalities, I think I probably have.
 [22] Q: Have other Board members described their understanding
 [23] of Intelligent Design?
 [24] A: I can't recall specifics, but they probably have said
 [25] something along those lines, but I'm not sure. I'm not

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[1] positive.
 [2] Q: Can you remember if any particular members of the Board
 [3] expressed their understanding of Intelligent Design?
 [4] A: I can't recall.
 [5] Q: Did you ever contact any organizations other than the
 [6] Discovery Institute for information about teaching
 [7] biology to high school students? As an example, the
 [8] National Academy of Sciences, did you ever contact them?
 [9] A: Not that I remember, no.
 [10] Q: What about the American Association for the Advancement
 [11] of Science?
 [12] A: Not that I recall.
 [13] Q: What about the American Federation of Biology Teachers?
 [14] A: Not that I recall.
 [15] Q: Any other organizations other than what we have
 [16] discussed with the Discovery Institute?
 [17] A: Contacted organizations personally to ask them about
 [18] this particular subject, not that I can remember at this
 [19] point.
 [20] Q: Do you know whether any other member of the Board ever
 [21] did that putting aside the Discovery Institute?
 [22] A: I don't know. You would have to ask them.
 [23] Q: Do you know whether any member of the administration
 [24] ever did that?
 [25] A: There again, you would have to ask them.

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[1] Q: Fair enough. Now I think from your previous deposition
 [2] my understanding is that you never advocated the
 [3] teaching of Creationism at any Board meetings; is that
 [4] consistent with your —
 [5] A: Correct.
 [6] Q: And just to be clear, you understand Creationism to
 [7] include the tenet that creatures were formed as they
 [8] now exist?
 [9] A: Are you asking my personal beliefs now?
 [10] Q: Yes. Your understanding of what Creationism.
 [11] A: My personal belief is yes, I believe in Creationism, and
 [12] I believe in the Bible and what it says.
 [13] Q: Part of that is that creatures were formed as they now
 [14] exist?
 [15] A: Yes. Species were, yes.
 [16] Q: For example, birds with their feathers, beaks and wings?
 [17] A: Okay.
 [18] Q: You agree with that?
 [19] A: Yes.
 [20] Q: And fish with fins and scales?
 [21] A: Again, you are asking my personal opinion?
 [22] Q: Is that part of your understanding of what Creationism
 [23] provides?
 [24] A: That could be part of it, yes.
 [25] Q: Putting aside Board meetings, has it ever been your

00041
1 A. Nothing substantial. I believe there was a typo and a
2 grammatical issue.
3 Q. Why was it reposted on December 14th?
4 A. Because we had updated the grammatical and the typo.
5 Q. If you look on the second page, which is Bates numbered
6 P1308, I direct your attention to the paragraph
7 following the indented material.
8 The second sentence says that you have directed
9 that no teacher will teach Intelligent Design,
10 Creationism or present his or her or the Board's
11 religious beliefs. That's the end of that quote.
12 Those are your words?
13 A. Yes.
14 Q. You wrote that?
15 A. Yes.
16 Q. How did you direct the teachers as referred to in that
17 sentence?
18 A. November 24th in my office with the whole Science
19 Department, Union Representative Mr. Miller, Mr. Baksa,
20 myself, we held a meeting with the teachers and
21 discussed implementation of the biology curriculum.
22 And the teachers ended up repeatedly concerned
23 with their issue of requiring to be teaching Creationism
24 and/or Intelligent Design.
25 And I told them repeatedly at least two that I

Richard Nilsen 4/14/05 (Day 2)

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00042
1 recollect and possibly three times, that they are not to
2 teach Intelligent Design, and they are not to teach
3 Creationism.
4 And the concern was raised that there may be
5 religious conversation, and it is generally a practice
6 in education that there are topics that should not be
7 discussed. And I think the legal history will reflect
8 teachers should not be presenting their own religious
9 beliefs.
10 Q. Your sentence refers to the Board's religious beliefs.
11 What are the Board's religious beliefs?
12 A. I don't know.
13 Q. Why did you include a direction to the teachers and a
14 statement in this press release that the teachers were
15 not to teach the Board's religious beliefs?
16 A. Because I think there was a belief in some science
17 teachers that Board members had individual religious
18 beliefs.
19 Q. What was your understanding of the basis for that belief
20 by the science teachers?
21 A. I thought they believed that the Board -- or at least
22 individual members in all fairness, because the Board is
23 seen as a collective, and it is not; it is
24 individuals -- had a religious intent of the action.
25 And my comment to them was that's not an area of

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00043
1 conversation. No one's religious beliefs is an area of
2 conversation to be discussed in individual classrooms.
3 Q. Why did you direct them not to teach Creationism?
4 A. It is illegal.
5 Q. What is your understanding of Creationism? What were
6 you referring to when you used that term in this
7 sentence?
8 A. I was referring to their statement of Creationism,
9 meaning that they believed they are being required to
10 teach Creationism. So I was not interested in my
11 definition, as much as I was interested in their
12 definition. And I don't know what their definition was
13 except they believed they were teaching a subject matter
14 called Creationism.
15 My answer to them was no, you are going to teach
16 the individual standards as required by the Pennsylvania
17 Department of Education.
18 But getting back to your original question, my
19 definition of Creationism, I think as defined in the
20 court case a Judeo-Christian Biblical reference to the
21 origins of life.
22 Q. When you first prepared this press release in November
23 of 2004, did you have an understanding that teaching
24 Creationism as you understood it was illegal?
25 A. Yes.

Richard Nilsen 4/14/05 (Day 2)

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00044
1 Q. How did you come to have that understanding?
2 A. I think it amounts to being common knowledge of various
3 and very specific legal cases in administration,
4 conversations and/or education. We all are taught
5 certain individual cases. And whether I received that
6 information about Aguillard in my undergraduate or
7 graduate or consistent reading, I can't speak to it.
8 But I was familiar with that case.
9 Q. Why did you direct the teachers not to teach Intelligent
10 Design?
11 A. Two reasons. One, they didn't want to teach Intelligent
12 Design, and that was not their interest. And I
13 supported them in that.
14 And secondly, it is not curricular directed
15 meaning we are standards driven, and we end up dealing
16 with the individual standards that are presented. And
17 as stated earlier, we don't have enough time to cover
18 all the material that we end up covering. The state
19 requires us to touch base on the Darwinian Theory and
20 discuss that. And we do discuss that.
21 And due to the time constraints, as well as it
22 currently not being in the state standards, they were
23 directed not to teach it.
24 Q. What was your understanding of the teachers' reasons for
25 not wanting to teach Intelligent Design?

Richard Nilsen 4/14/05 (Day 2)

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00013
 1 Q. So did she at some point ask you to come to the School
 2 Board meeting to support her efforts to introduce prayer
 3 into the school?
 4 A. If I remember correctly, she mentioned that she was
 5 going to be at that Board meeting, and there were
 6 numerous people from our church who went in support of
 7 her.
 8 Q. Does Mrs. Cleaver attend your church?
 9 A. No, she doesn't.
 10 Q. Did you speak at that meeting?
 11 A. No, I did not.
 12 Q. Did you sign any petitions?
 13 A. No, I did not.
 14 Q. Do you know who did speak in favor of introducing prayer
 15 into the school?
 16 A. Mrs. Cleaver did.
 17 Q. Do you recall if anyone spoke?
 18 A. No.
 19 Q. So you were there primarily just to show support through
 20 your presence?
 21 A. Yes.
 22 Q. So that was one meeting sometime in the spring of 2002.
 23 You also mentioned a meeting that you an extended during
 24 the conflict about the Pledge of Allegiance?
 25 A. Yes.

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00014
 1 Q. When would that have been?
 2 A. I can't remember the time.
 3 Q. Was your husband serving on the Board at that time?
 4 A. Yes, he was.
 5 Q. So it was sometime after the fall of 2002?
 6 A. Yes.
 7 Q. Why did you choose to attend that meeting?
 8 A. Just to be there in support. There were numerous people
 9 from my church who also attended that meeting. We went
 10 just in support of them.
 11 Q. Now let me back up to the previous meeting we were
 12 talking about. You also said that there were numerous
 13 people from your church who attended? Is that a yes?
 14 A. Yes.
 15 Q. Thank you.
 16 A. Sorry.
 17 Q. Was there a request made by your Pastor for people to
 18 come and support, or how was it that so many people from
 19 Harmony Grove were there in attendance?
 20 A. There are a number of people from -- there was no
 21 request by our Pastor, but a number of the people from
 22 my church have children who are in the Dover School
 23 District. So they attend meetings regardless of whether
 24 there is anything special going on or not.
 25 Q. With regard to the pledge situation, had your Pastor

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00015
 1 mentioned that it would be a good idea to attend that
 2 meeting, or do you think those people were just there?
 3 A. I think they were just there. He did not specifically
 4 make any request.
 5 Q. And did you speak at the pledge meeting?
 6 A. No, I did not.
 7 Q. So you did not speak during the public comment period?
 8 A. No.
 9 Q. Did you speak to any reporters at that meeting or after
 10 that meeting?
 11 A. No, I did not.
 12 Q. Do you recall who did speak with regard to the pledge
 13 issue?
 14 A. No, I do not.
 15 Q. What is your understanding of what the conflict was
 16 about the words under God in the pledge specifically at
 17 Dover Area School District?
 18 A. From what I understood, there was reports that someone
 19 wanted to make a bill to take under God out of the
 20 pledge.
 21 Q. Would that have been a Pennsylvania bill, something in
 22 the Pennsylvania Legislature?
 23 A. I wasn't sure.
 24 Q. From whom did you hear these reports?
 25 A. Just talking among different people.

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00016
 1 Q. Did you ever speak to your husband about this issue?
 2 A. No.
 3 Q. So your intent at that meeting was again just to have a
 4 showing of support to keep the Pledge of Allegiance in
 5 school?
 6 A. Yes.
 7 Q. And let me just make sure I have it straight. Did you
 8 want to keep the Pledge of Allegiance in school, or did
 9 you want to keep the Pledge of Allegiance with the words
 10 under God in school?
 11 A. I wanted to keep the words under God in the pledge in
 12 school and everywhere.
 13 Q. Was it your understanding about the proposed legislation
 14 that it was attempting to remove only the words under
 15 God but maintain the Pledge of Allegiance in school?
 16 A. Yes, that was my understanding.
 17 Q. So you did not speak at that meeting?
 18 A. No, I did not.
 19 Q. What meetings other than I will just call it the pledge
 20 meeting and the prayer meeting did you attend?
 21 A. I attended the meeting where there was controversy about
 22 the proposal that Intelligent Design be introduced into
 23 the biology curriculum.
 24 Q. Do you know when that would have been?
 25 A. It was in June of 2004.

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speculative, or do you believe that it is

I don't know. It is a theory.

Q: I understand, but my question is: Do you believe that intelligent design is speculative?

A: Yes.

Q: Your last paragraph says you can teach Creationism without its being Christianity. What did you mean by that?

A: I was telling her what she could do. She kept putting the two together, and I pulled it apart. I was just telling her what she can do.

Q: Well, tell me how anyone can teach Creationism without its being Christianity.

A: Different religions have different creation stories.

Q: Do you know of any?

A: I know mine.

Q: Do you know that any other religions have different creation stories?

A: No.

Q: Then how do you know that they do?

A: Because not all of them are like mine.

Q: How do you know?

A: Because other people believe in other things.

Q: How do you know? I am not being facetious. I really

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want to know what is in your head.

A: Because they are not like me. They don't believe like me. They don't have the same morals, values. They are different.

Q: Is it your belief that you can teach Creationism without being Christianity by using the creation story from a different religion?

A: Can you repeat that, please?

Q: I am just trying to take this apart so I can understand

Is it your view that you can teach Creationism without it being Christianity; that is your statement so far, right?

A: Yes.

Q: By using a creation story from another religion?

A: Yes.

Q: Can you teach Creationism in your view without using some creation story from some religion?

A: I don't know.

Q: What did you mean in the next sentence where you said it can be presented as a higher power. And I am assuming by that you mean Creationism.

First tell me if I'm right about that.

A: Yes.

Q: What did you mean by presented as a higher power?

(1) A: I did not want to offend her. I did not know what she
(2) believed, if she believed in a religion so I didn't want
(3) to assume and offend her so I just put higher power.

(4) Q: I understand your intent not to be offensive to Beth
(5) Eveland, but what does the phrase a higher power mean?

(6) A: It varies. It depends on who you are and what you
(7) believe. It could be a number of things.

(8) Q: What did you mean when you used it here?

(9) A: Just what I said, whatever she believed.

(10) Q: I will tell you that when I read your letter and saw the
(11) phrase a higher power, I assumed from a familiarity with
(12) that phrase that by higher power you meant something
(13) outside the natural order of things; is that right?

(14) A: Yes.

(15) Q: Without putting a name on it?

(16) A: Yes.

(17) Q: Did you ever have a response to this letter?

(18) A: Not that I'm aware of.

(19) Q: Do you know Beth Eveland?

(20) A: Personally, no. I know who she is now.

(21) Q: Was it your point in sending this letter that
(22) Creationism is an alternative theory to Darwinian
(23) evolution?

(24) A: No.

(25) Q: Is Creationism an alternative theory —

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(1) A: No.

(2) Q: — to evolution? What is the difference?

(3) A: One is science, and one is religion. That is me
(4) personally.

(5) Q: Mrs. Geesey, I think this is my last exhibit. I am
(6) showing you what has been previously marked as P-19
(7) which is a two page document titled Dover Area School
(8) District News.

(9) Have you seen this document before?

(10) A: Yes.

(11) Q: Was the issuance of this document approved by the School
(12) Board?

(13) A: Yes.

(14) Q: Did you participate in any meeting where that approval
(15) was made?

(16) A: Yes.

(17) Q: Who prepared this document?

(18) A: I don't know.

(19) Q: Was it prepared by a Board member?

(20) A: No.

(21) Q: Was it prepared by a Board committee?

(22) A: No.

(23) Q: Was it reviewed by a Board committee?

(24) A: I don't know.

(25) Q: It is called as a subtitle Biology Curriculum Update.